

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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FILED

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DEPARTMENT OF REAL ESTATE

In the Matter of the Application of )  
BRIAN JEDDO SARKIS, )  
Respondent. )

By *Juan Arango*  
NO. H-8130 SE  
OAH NO. N-2002070346

DECISION

The Proposed Decision dated November 6, 2002, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent. There is no statutory restriction on when a new application may be made for an unrestricted license. Petition for the removal of restrictions from a restricted license is controlled by Section 11522 of the Government Code. A copy is attached hereto for the information of Respondent.

If and when application is made for a real estate salesperson license through a new application or through a petition for removal of restrictions, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is appended hereto.

This Decision shall become effective at 12 o'clock noon  
on December 30, 2002.

IT IS SO ORDERED

*December 6, 2002.*

PAULA REDDISH ZINNEBANN  
Real Estate Commissioner

*Paula Reddish*

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Application of:

BRIAN JEDDO SARKIS,

Respondent.

Case No. H-8130 SF

OAH No. N2002070346

**PROPOSED DECISION**

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on September 20, 2002.

David A. Peters, Real Estate Counsel represented complainant Les R. Bettencourt.

Roger D. Wintle, Attorney at Law, 10 Almaden, Suite 1220, San Jose, CA, 95113, represented respondent Brian Jeddo Sarkis, who was present.

The matter was submitted on September 20, 2002.

**FACTUAL FINDINGS**

1. Complainant Les R. Bettencourt made and filed the statement of issues in his official capacity as a Deputy Real Estate Commissioner of the State of California, Department of Real Estate (Department).

2. Respondent Brian Jeddo Sarkis made application to the Department for a real estate license on or about January 14, 2002. He did so with the understanding that any license issued as a result of his application would be subject to the conditions of Business and Professions Code section 10153.4

3. On or about September 12, 1995, respondent was convicted in the Superior Court, County of San Francisco, on his plea of guilty to a violation of Health and Safety Code section 11352, subdivision (a), sale of a controlled substance, a felony. The crime is an offense that involves moral turpitude and is one that is substantially related to the qualifications, functions, or duties of a real estate licensee (see Cal.Code Regs, tit. 10, § 2910(a)(8)).

Imposition of sentence was suspended and respondent was placed on probation for three years. Respondent was ordered to serve nine months in county jail, but was released after four months for good behavior. Respondent successfully completed probation and probation was terminated.

4. The offense took place in January of 1995. Respondent, then aged 19, sold cocaine to an undercover police officer.

Respondent had been engaged in selling drugs for about six months, thinking it was cool to hang out with a particular crowd. Respondent learned a life lesson, and he no longer associates with this group of people. Respondent has committed no other criminal offenses, and he fully disclosed the conviction on his application for licensure.

5. On August 15, 2002 respondent obtained an order pursuant to Penal Code section 1203.4, which set aside the conviction, entered a plea of not guilty to the charge, and dismissed the information.

6. In 1997, respondent obtained an AA degree from ITT Technical Institute.

7. Respondent is 27 years old. He is single, but would like to marry and start a family. Respondent regularly attends church.

8. For the last seven years respondent has been employed with Fry's Electronics. He started as a cashier, and has been consistently promoted. His current position is store manager. As such, respondent supervises 40 employees.

9. If licensed, respondent would like to work as a loan officer. Respondent is currently a loan officer trainee at Willow Street Mortgage in San Jose. Owner/broker Kathryn L. Frias attests that respondent is fully trained and prepared to take on the duties of a full loan officer should he obtain his licensure.

## LEGAL CONCLUSIONS

1. Under Business and Professions Code section 480(a) and 10177(b) the Commissioner may deny an application for a real estate license if the applicant has been convicted of a felony or a crime involving moral turpitude that is substantially related to the qualifications, functions, or duties of a real estate licensee. By reason of the matters set forth in Finding 3, cause exists to deny respondent's application for licensure.

2. All matters set forth in the Factual Findings and all relevant criteria in rehabilitation as set forth in section 2911 of title 10 of the California Code of Regulations have been considered in making the determination that it would not be contrary to the public interest to grant respondent a conditional real estate salesperson license on a restricted basis. The offense took place over seven years ago. Respondent successfully completed probation and the offense has been set aside. Respondent has changed his lifestyle and friends

dramatically. Respondent has been gainfully employed for seven years and he has obtained further education. Respondent does not appear to pose a risk of reoffending. The public will be adequately protected by the following order:

### ORDER

The application of Brian Jeddo Sarkis for a real estate salesperson license is denied by reason of Legal Conclusion 1; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of said Code:

1. Respondent's restricted real estate salesperson license is issued subject to the requirements of Section 10153.4 of the Business and Professions Code, to wit: Respondent shall, within eighteen (18) months of the issuance of the restricted license, submit evidence satisfactory to the Commissioner of successful completion, at an accredited institution, of two of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance or advanced real estate appraisal. If Respondent fails to timely present to the Department satisfactory evidence of successful completion of the two required courses, the restricted license shall be automatically suspended effective eighteen (18) months after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent has submitted the required evidence of course completion and the Commissioner has given written notice to Respondent of lifting of the suspension.

2. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified license under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall not be entitled to the issuance of another license which is subject to Section 10153.4 until four years after the date of the issuance of the preceding restricted license.

3. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

(a) The conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee; or

(b) The receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.

4. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license to respondent.

5. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev. 4/88) approved by the Department of Real Estate which shall certify as follows:

(a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(b) That the employing broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

DATED: Nov. 6, 2002



MELISSA G. CROWELL  
Administrative Law Judge  
Office of Administrative Hearings

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**  
JUL 11 2002

DEPARTMENT OF REAL ESTATE

*In the Matter of the Application of*

By Shelly Ely

BRIAN JEDDO SARKIS

} Case No. H-8130 SF

} OAH No.

Respondent

**NOTICE OF HEARING ON APPLICATION**

***To the above named respondent:***

*You are hereby notified* that a hearing will be held before the Department of Real Estate at THE OFFICE OF ADMINISTRATIVE HEARINGS, ELIHU M. HARRIS BUILDING, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612 on FRIDAY--SEPTEMBER 20, 2002, at the hour of 10:30 A.M., or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearing within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay for his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: JULY 11, 2002

By David A. Peters  
DAVID A. PETERS, Counsel

1 MICHAEL B. RICH, Counsel  
2 State Bar No. 84257  
3 Department of Real Estate  
4 P. O. Box 187000  
5 Sacramento, CA 95818-7000

6 Telephone: (916) 227-0789

FILED  
JUN 14 2002

DEPARTMENT OF REAL ESTATE

By Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Application of )  
12 BRIAN JEDDO SARKIS, )  
13 Respondent. )

No. H-8130 SF

STATEMENT OF ISSUES

14  
15 The Complainant, LES R. BETTENCOURT, a Deputy Real  
16 Estate Commissioner of the State of California, for Statement of  
17 Issues against BRIAN JEDDO SARKIS (hereinafter "Respondent"), is  
18 informed and alleges as follows:

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20 Respondent made application to the Department of Real  
21 Estate of the State of California for a real estate salesperson  
22 license on or about January 14, 2002, with the knowledge and  
23 understanding that any license issued as a result of said  
24 application would be subject to the conditions of Section 10153.4  
25 of the Business and Professions Code.

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II

Complainant, LES R. BETTENCOURT, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

On or about September 12, 1995, in the Superior Court, County of San Francisco, Respondent was convicted of a violation of Section 11352(a) of the California Health and Safety Code and Section 664 of the California Penal Code (Transports, imports into the State of California to sell, furnish, administer or give away a controlled substance to wit: Cocaine); a felony involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The crimes of which Respondent was convicted, as alleged in Paragraphs III, constitute cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

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1           WHEREFORE, the Complainant prays that the above-  
2 entitled matter be set for hearing and, upon proof of the charges  
3 contained herein, that the Commissioner refuse to authorize the  
4 issuance of, and deny the issuance of, a real estate salesperson  
5 license to Respondent, and for such other and further relief as  
6 may be proper under other provisions of law.

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10           LES R. BETTENCOURT  
            Deputy Real Estate Commissioner

11   Dated at Oakland, California,  
12   this 25th day of April, 2002.